

Exhibit 5

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

-----:
THE SOUTH CAROLINA STATE :
CONFERENCE OF THE NAACP, :
et al., :
:
Plaintiffs, :
:
vs. : Case No.
: 3:21-CV-03302-MGL-
: TJH-RMG
THOMAS C. ALEXANDER, :
et al., :
:
Defendants. :
-----:

DEPOSITION OF ADAM KINCAID

DATE: Wednesday, August 10, 2022
TIME: 10:02 a.m.
LOCATION: Holtzman Vogel
2300 N Street, N.W.
Washington, D.C. 20037
REPORTED BY: Erick M. Thacker, RPR
Reporter, Notary

1 or legislators.

2 Q And you're just about to touch upon my
3 next question, but did NRRT provide proposed maps
4 to the General Assembly?

5 A Yes.

6 Q And how many did they provide?

7 A I'm aware of three.

8 Q Is --

9 A I remember three.

10 Q Is it possible that it could have been
11 more than three?

12 A No. The only three maps I sent down
13 are the three that we produced to you-all.

14 Q Besides you personally, did anyone else
15 from NRRT provide maps to the General Assembly?

16 A To my knowledge, no other staff
17 provided any maps to anybody in South Carolina.

18 Q Okay. And did any member of the
19 General Assembly provide NRRT with any documents
20 or materials?

21 A Not that I'm aware of, no. Apart from
22 files that were posted to the website of the

1 South Carolina General Assembly, no.

2 Q Just to be clear, did members provide
3 you with publicly-available information?

4 A We didn't receive any special
5 communications from any legislators or staff --

6 Q Okay.

7 A -- in South Carolina sending us files
8 that weren't on the website.

9 And we didn't get any communications
10 from anyone -- to be clear, we did not receive
11 any communications of people sending us files
12 that were on the website.

13 Q Okay.

14 A Part of our job is to go to state
15 websites and get files off of them. So that's
16 the only way that we ever got files from South
17 Carolina is from the website where it was
18 publicly posted.

19 Q Okay. And so what were the names of
20 the three maps that NRRT provided to the South
21 Carolina General Assembly?

22 A There were three, Wren, Palmetto and

1 Jessamine.

2 Q And what program did NRRT use to create
3 those maps?

4 A Those were created in American GeoData.

5 Q And did you utilize any data to create
6 those maps?

7 A Yes.

8 Q And what data was that?

9 A Political data and population data.

10 Q Okay. I now want to go to Tab 5.

11 A Okay.

12 Q Mr. Kincaid, do you recognize this map?

13 A It's really hard to see the lines. I'm
14 sorry. Let me say that louder. It's very
15 difficult to see the lines on this printout.

16 This looks like one of the two maps I
17 produced originally, yes.

18 Q Do you have any reason to believe this
19 is not the Wren map that you provided to South
20 Carolina?

21 A I mean, again, it's very hard to tell
22 what these lines are, so I can't tell if any

1 blocks or anything else would have been changed,
2 but it looks like the Wren map that I provided to
3 South Carolina.

4 Q If it -- if it helps you, I could
5 display it on the screen.

6 A It's fine either way. I mean, it's --

7 Q Okay.

8 A Yeah.

9 MR. GORDON: Counsel, just to eliminate
10 any concern, can you verify that this is just --
11 can you verify that this is a map produced
12 straight from a document that was produced or not
13 produced?

14 MR. HINDLEY: Yes.

15 MR. GORDON: And it's been faithfully
16 recreated in this form?

17 MR. HINDLEY: It has, yes.

18 MR. GORDON: Okay.

19 MR. HINDLEY: Great.

20 BY MR. HINDLEY

21 Q And what prompted NRRT to produce the
22 Wren map?

1 A What prompted us? Can you be more
2 clear about what --

3 Q So why -- why did NRRT create the Wren
4 map?

5 A The Wren map was created as a proposal
6 for the South Carolina legislature to consider.

7 Q Did any member of NRRT have any
8 discussions where they were asked to create this
9 map?

10 A Discussions. By whom? Can you be
11 more --

12 Q Sorry. Did any members of the South
13 Carolina General Assembly or the staff ask NRRT
14 to create the Wren map?

15 A No members of the South Carolina
16 General Assembly or their staff requested the
17 map, requested that we create this map.

18 Q And why was this map sent to Mr.
19 Fiffick on his personal e-mail?

20 A I tried to send it to him on his
21 professional e-mail, and it bounced back and did
22 not go through.

1 Q And how -- how did you find out what
2 his personal e-mail was?

3 A I was -- someone told me what his
4 e-mail address was.

5 Q And who was that?

6 A Dale Oldham.

7 Q And when you originally sent the Wren
8 and Palmetto maps, the file name was A and B; is
9 that correct?

10 A That's correct.

11 Q Is there a reason why the file was
12 nicknamed A and B?

13 A I zipped the two maps together --

14 Q Okay.

15 A -- and Wren and Palmetto was longer to
16 write, so A and B seemed easier.

17 Q Okay. Did anyone from NRRT have
18 discussions about the Wren map with Mr. Charles
19 Terreni?

20 A Not to my knowledge, no.

21 Q Did --

22 A Not that I recall.

1 Q Okay. Did anyone from NRRT have
2 discussions with Mr. Oldham about the Wren map?

3 A Yes.

4 Q When was that discussion?

5 A When I sent the maps down.

6 Q And can you tell me what was the
7 content of that discussion?

8 A Sure. I reached out to Dale. My
9 understanding was that he was counsel to the
10 South Carolina Senate Republican caucus. And I
11 asked him who I could send some maps to, and so
12 he provided me contact information for that
13 person.

14 Q And who initiated that conversation?

15 A I called Dale.

16 Q Did Dale previously request that NRRT
17 provide maps for South Carolina?

18 A No.

19 Q Did Mr. Oldham provide any details
20 on -- to assist you in creating the Wren map?

21 A Creation of the Wren map?

22 Q Yes.

1 A No, he did not. He provided no
2 direction on how to create the Wren map, no.

3 Q What prompted -- what was the reason
4 why NRRT initially contacted Mr. Oldham?

5 A Regarding South Carolina?

6 Q Yes. Yeah, South Carolina
7 redistricting.

8 A I reached out to Dale because I --
9 again, I answered that -- that I -- I reached out
10 to Dale because I wanted to provide these maps
11 and asked Dale how I can go about doing that.

12 Q Okay. Did you have any discussions
13 with Mr. Clark Bensen about the Wren map?

14 A I did not.

15 Q Did you have any discussion with
16 Mr. John Gore about the Wren map?

17 A I did not.

18 Q And was NRRT -- do they consult anyone
19 to create the Wren map?

20 A Can you be more clear?

21 Q Yeah. Let me strike that.

22 Did NRRT consult any -- any

1 organization outside of NRRT in creating this
2 map?

3 A Did we -- when you say "consult," you
4 mean just talking to people? Like what do you
5 mean by consult?

6 Q So did NRRT have any assistance from
7 anyone outside of NRRT to create this map?

8 A Assistance. I drew the Wren map.

9 Q Did --

10 A So no one else drew the map. I drew
11 the map.

12 Q Okay. Did Fair Lines America have any
13 involvement in drawing the Wren map?

14 A I mean, the staff of Fair Lines America
15 are the people we've been talking about.

16 Q Okay.

17 A The (c)(4).

18 Q Did anyone from Magellan Strategies
19 have any role in creating the map?

20 A No.

21 Q Did Jennifer Flaherty have any
22 involvement in drafting the map?

1 Thank you.

2 MR. HINDLEY: Yeah. I provided the
3 court reporter a binder of the potential
4 exhibits.

5 BY MR. HINDLEY

6 Q Now I'm going to go to tab 10.

7 A Ten. Okay. Skipping 7, 8 and 9?

8 Q Yeah.

9 A Got it.

10 Q And do you recognize this map?

11 A Yes.

12 Q What map is this?

13 A This should be Jessamine. It looks
14 like Jessamine.

15 Q And why did you create the Jessamine
16 map?

17 A I created this map because I saw a map
18 posted from the state of South Carolina. It was
19 on their website, I believe, it was released, and
20 I made some changes to it.

21 Q Do you recall which map that was?

22 A I don't recall.

1 Q Do you recall when that map was posted?

2 A I think it was a draft that was posted
3 just a couple days before this was sent down. I
4 don't recall, though.

5 Q Do you -- was it posted by the House or
6 the Senate?

7 A I don't recall. It was a map that we
8 saw out of South Carolina. But it was not
9 received in any confidential way, e-mail, et
10 cetera.

11 Q Okay. And did you have any
12 conversations with Mr. Fiffick before sending him
13 the Jessamine map?

14 A I did not.

15 Q Did you have any conversations with
16 Mr. Oldham before -- scratch that.

17 Did you have any conversations with
18 Mr. Oldham about the Jessamine map?

19 A Yes.

20 Q What was that conversation?

21 A I called Dale. I asked him if I could
22 send down another map. I told him that I was

1 concerned about the 1st District and that it
2 needed to be more Republican, and he told me that
3 he would find out if I could send it down.

4 Q Okay. And when was that conversation?

5 A A day or two before I sent it down.

6 Q Okay. Did Mr. Oldham ever review the
7 Jessamine map?

8 A I don't know if he saw it after it was
9 sent down or not. I assume at some point he did,
10 but -- because it was public, but, no.

11 Q Did you --

12 A I don't know.

13 Q -- have any conversations with Mr. Gore
14 about the Jessamine map?

15 A No, I did not.

16 Q Did you have any conversations -- did
17 you -- did anyone at NRRT have any conversations
18 with Mr. Gore about this map?

19 A No one else at NRRT had knowledge of
20 this map other than myself.

21 Q Okay. And did you discuss this map
22 with Clark Bensen?

1 A No.

2 Q Do you recall whether you discussed the
3 Jessamine map with anyone else from the South
4 Carolina General Assembly?

5 A I -- other than -- no, I did not talk
6 to any member of the South Carolina General
7 Assembly about this map.

8 Q Did Jennifer Flaherty have any
9 involvement in creating this map?

10 A No.

11 Q Now I wanted to look at the Jessamine
12 map.

13 A Uh-huh.

14 Q We're kind of going to go through
15 similar questions like we did with the Wren map.

16 Is Sumter County in one district or in
17 two districts?

18 A Two.

19 Q Is Orangeburg County in one district or
20 two districts?

21 A Two.

22 Q Is Beaufort County in one district or

1 two districts?

2 A Two.

3 Q Is Richland County in one district or
4 two districts?

5 A Two.

6 Q And is Charleston County split between
7 one district or two districts?

8 A Two.

9 Q And I realize I failed to ask these
10 questions about the Palmetto map, so if you could
11 turn back to that one.

12 A Which was tab -- yeah. Okay. Six.

13 Q So on the Palmetto map, is Sumter
14 County split between one district or two
15 districts?

16 A Two.

17 Q Is Orangeburg County split between one
18 district or two districts?

19 A Two.

20 Q Is Beaufort County split between one
21 district or two districts?

22 A It's not split in this map.

1 Q Is Richland County one district or two
2 districts?

3 A Two.

4 Q And is Charleston County in one
5 district or two districts?

6 A Two.

7 Q And turn back to the Jessamine map.

8 And what was -- what was your goal in
9 creating the Jessamine map?

10 A The 1st and 2nd Districts in this map,
11 I believe, came out of a -- yeah, I mean, I just
12 wanted to make them as Republican as I could.
13 And these 1st and 2nd districts in Jessamine were
14 redder even than the maps that I had originally
15 sent down.

16 Q Do you recall what changes you made to
17 the map that was posted to make it more
18 Republican?

19 A The 2nd District, I don't recall making
20 significant changes to.

21 The 1st District, I had, you know, made
22 adjustments probably in Charleston, but I don't